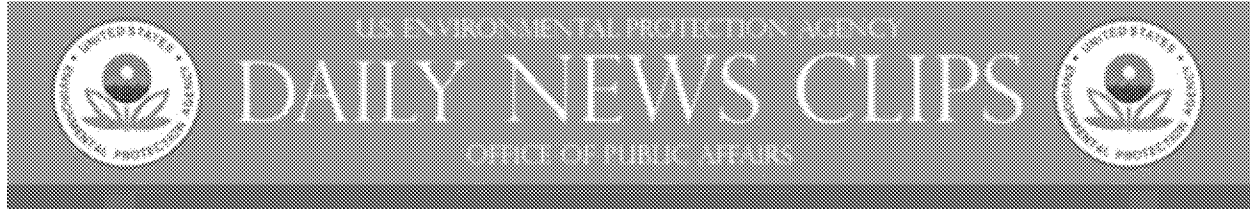


Message

From: Rodriguez, Alejandra [rodriguez.alejandra@epa.gov]
Sent: 7/15/2019 8:17:29 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips: 07/15/2019



Monday, July 15, 2019

Advisory Panels:

[Bloomberg Environment: EPA Advisers Subject to Inconsistent Ethics Reviews, GAO Says](#)

[Buzzfeed News: Trump's EPA Picked Science Advisors By A Secret Process](#)

[Greenwire: GAO: Agency skirts protocol on advisory panels](#)

[The New York Times: E.P.A. Broke Rules in Shake-Up of Science Panels, Federal Watchdog Says](#)

Animal Testing:

[Chemical Watch: EPA denies leaked report of 2035 animal testing phaseout](#)

Bees:

[HuffPost: EPA Approves Bee-Killing Pesticide After U.S. Quits Tracking Vanishing Hives](#)

Biodiesel:

[The Hill: Finish the work of building a renewable fuels industry](#)

Chemicals:

[Bloomberg Environment: EPA to Disclose Chemical Details if Privacy Claims Lacking](#)

Clean Water Act:

[Greenwire: Greens assail 'Orwellian' view of Clean Water Act](#)

Office of Inspector General:

[Bloomberg Environment: EPA Falls Short on Data Quality, Management: Internal Watchdog](#)

[Greenwire: Agency needs to improve on risk communication — IG](#)

Paris Withdraw:

[Climatewire: Wheeler: Obscure air provision behind Paris withdrawal](#)

PFAS:

Greenwire: N.M. accuses EPA of breaking Wheeler's PFAS cleanup pledge

The Hill: How toxic 'forever chemicals' made their way into your food

Pollution Permits:

CNN: New York Times: EPA to limit ability to oppose pollution permits

Pruitt:

E&E Daily: Democrats to attack Pruitt policy on advisers

Advisory Panels:

Bloomberg Environment

EPA Advisers Subject to Inconsistent Ethics Reviews, GAO Says

<https://news.bloombergenvironment.com/environment-and-energy/epa-advisers-subject-to-inconsistent-ethics-reviews-gao-says>

Amena Saiyid and Sylvia Carignan

- Watchdog reviews EPA's financial disclosure practices
- Members on Science Advisory Board, Clean Air Scientific Advisory Committee affected

The EPA didn't follow financial disclosure requirements when appointing members to two of its advisory boards, Congress' watchdog arm said July 15.

The Environmental Protection Agency "did not consistently ensure" that its special government employees on the Science Advisory Board and Clean Air Scientific Advisory Committee were vetted in accordance with federal ethics rules, the Government Accountability Office said in a report. The office found "similar weaknesses" in the agency's ethics program in 2017 and 2015.

A "special government employee" is the official title for an outside expert serving on a committee. These experts are expected to advise the agency without conflicts of interest, and federal regulations require them to disclose financial interests.

The GAO released the report a day before the investigations arm of the House Science, Space and Technology Committee will hold a hearing on how science is informing decision-making at the EPA.

Agency staff didn't appropriately justify why they recommended certain candidates, or how those candidates helped the agency achieve a balanced committee, the report said. EPA officials told investigators they didn't prepare written justifications because management requested briefings instead.

"EPA management then decided whom to appoint after reviewing the entire list of personnel nominated for membership—not a short-list of staff-recommended candidates, as called for by EPA's handbook," the report said.

Agency officials said that process was better than preparing written justification, because it allowed in-depth discussions between management and other staff, the report said.

Agency Rejects Findings

The EPA, however, rejected the congressional watchdog's findings.

“EPA has already provided GAO its thorough explanation on their conclusion that the Agency did not follow its own policy—the assertion is incorrect and should be removed from the report,” EPA spokesman Michael Abboud told Bloomberg Environment in a July 15 email.

Lianne Sheppard, a biostatistics professor at the University of Washington who previously served on the EPA’s Clean Air Scientific Advisory Committee, said, “I agree with the conclusions of this report and do not find them surprising.”

Sens. Sheldon Whitehouse (D-R.I.) and Tom Carper (D-Del.) led a coalition of Democratic senators to request the investigation.

They said they were concerned the Trump administration installed industry-backed scientists to guide the EPA’s scientific decision-making process as the agency reviews federal limits for ozone and fine airborne particle pollution.

Whitehouse said the GAO report shows the current administration rigged influential advisory boards to favor its polluter backers, while Carper said the nonpartisan GAO confirms “what we’ve been critical of all along: The Trump administration is violating its own rules by putting industry officials in charge of crucially important science advisory boards.”

Buzzfeed News

Trump’s EPA Picked Science Advisors By A Secret Process

<https://www.buzzfeednews.com/article/zahrahirji/trump-epa-gao-science-advisors>

Zahra Hirji 07/15/19

There are more industry members and fewer academic experts on the EPA’s main science review board since Trump took office, according to a government watchdog report.

The Environmental Protection Agency selected top science advisors by a secret process that ignored federal guidelines, tapping many members from industry rather than academia without documenting its justification, a government watchdog found.

EPA staff typically prepare detailed, written recommendations about the best candidates to serve on the agency’s 22 science advisory committees, according to the federal government’s guidance on staffing science boards.

Officials ignored this long standing process in their overhaul of two high-profile committees that provide critical independent reviews of EPA’s science and regulations, according to a new report released by the US Government Accountability Office Monday. The GAO named the Science Advisory Board (SAB) and the Clean Air Scientific Advisory Committee (CASAC) in the report, criticizing how their latest members were selected in an unusually opaque way.

“The old process ensured that highly qualified people had the expertise in appropriate fields needed for upcoming reviews,” Christopher Zarba, the former director of EPA’s Science Advisory Board staff office who stepped down in 2018, told BuzzFeed News. Under President Donald Trump, he said, this “was replaced by a secretive process.”

In a statement the EPA refuted the GAO’s finding that the agency had ignored internal policy in filling positions on its science boards. The EPA said its new selection process offered a “more rigorous examination” of the applicants, involving agency management getting briefed by staff and then making their final decisions using the full list of applicants, per the GAO report.

However, the agency provided no documentation to back up these claims, and still used the old process for staffing its 20 other advisory committees. As a result, there’s no paper trail documenting why the agency selected some of its most controversial advisors.

Zarba rejected the EPA’s description of the new process. “This is bullshit. There was no other process. There was no review, no feedback, at least when I was there,” he said.

Senate Democrats Tom Carper of Delaware and Sheldon Whitehouse of Rhode Island requested the GAO review of EPA's science advisors in 2017, after the Trump administration removed several agency advisors. Then the EPA announced sweeping changes to the rules dictating who could serve as an EPA advisor going forward.

Scott Pruitt, Trump's first EPA head who resigned in July 2018 amid multiple ethics scandals, led the charge on this controversial effort, drawing applause from industry groups and criticism from science watchdog and environmental groups.

In response, the composition of the Science Advisory Board, the EPA's main group of independent science advisers, has dramatically changed since Trump took office. There are now far fewer academic experts on the SAB, and more industry members.

"This report shows that the Trump administration rigged influential advisory boards to favor its polluter backers. In the process, they also slowed down the work of the committees, delaying key decisions on whether to regulate potentially dangerous environmental hazards," Sen. Whitehouse said in a statement. "The GAO's findings are yet another example Donald Trump handing the keys to Americans' government to big industries that government is supposed to police."

The government watchdog report also found the "EPA did not consistently ensure that committee members met federal ethics requirements," a problem that predated the Trump administration. After the EPA ethics office was short staffed in 2017, the agency has since committed to expanding its capacity.

The new critical report follows a new Trump executive order ordering the removal of at least one-third of all of the federal government's science advisory committees, not just at the EPA, a move that Democrats in Congress and science groups say makes no sense.

Greenwire

GAO: Agency skirts protocol on advisory panels

<https://www.eenews.net/greenwire/2019/07/15/stories/1060743511>

Sean Reilly

EPA repeatedly sidestepped normal procedures in making appointments to two high-profile advisory committees and failed in other instances to ensure that members on a number of panels met federal ethics requirements, congressional auditors said in a report released today.

"This report shows that the Trump administration rigged influential advisory boards to favor its polluter backers," Sen. Sheldon Whitehouse (D-R.I.) said in a statement. Whitehouse was among 10 lawmakers to request the Government Accountability Office review two years ago.

While agency leaders followed written handbook guidelines for filling slots on most of EPA's 22 federal advisory committees in fiscal 2018, they made a significant exception for the Science Advisory Board and Clean Air Scientific Advisory Committee, according to the review by GAO.

Rather than relying on a "short-list" of career staff recommendations in making the appointments, agency officials instead culled their choices from the entire roster of nominees, the report said. Many of the resulting assignments then went to candidates with industry connections, according to online lists for the two panels.

"This is not a trivial issue, but a serious problem that has profound consequences for enforcement and regulatory actions across the agency," Sen. Tom Carper (D-Del.), another requester, said in the same release.

GAO's conclusions are likely to take center stage tomorrow at a hearing in the House Science, Space and Technology Committee, at which the report's lead author is scheduled to testify (E&E Daily, July 15).

In a written response, EPA strongly disputed any suggestion of impropriety. Instead of relying on staff recommendations, the agency opted for "a more rigorous examination of the candidates" via a series of briefings with senior management to discuss their respective strengths and weaknesses, Donna Vizian, a senior career employee in the agency's Office of Mission Support, wrote in comments last month on the draft of the report.

"This is within the discretion of the EPA administrator," Vizian added in unsuccessfully urging that the finding be dropped from the final version. Apart from saying that then-EPA chief Scott Pruitt wanted more information than the usual process would have provided, her response does not explain why EPA took that route for just two of its committees. Pruitt had singled out both, however, when he announced a contentious new membership policy for agency advisory panels in October 2017.

The Science Advisory Board (SAB) provides outside expertise to EPA on a wide range of scientific and technical issues; the Clean Air Scientific Advisory Committee (CASAC) performs a similar role during the agency's statutorily required reviews of the air quality standards for ozone, particulate matter and four other pollutants named in the Clean Air Act.

The most controversial feature of Pruitt's policy was a ban on advisory committee membership by people currently receiving EPA grants (E&E News PM, Oct. 31, 2017). While Pruitt said that restriction was intended to preserve members' objectivity, critics countered that the policy contained no such safeguards for appointees with ties to businesses regulated by the agency.

Concerns over financial disclosure, reappointments

In today's report, GAO also found that EPA did not "consistently ensure" that people appointed or reappointed to eight advisory committees as "special government employees" met federal financial disclosure requirements.

That portion of the report spanned an 18-month period from October 2016 through March 2018. Out of 74 disclosure forms reviewed for that period, 17 lacked a sign-off from an EPA ethics official showing that the filer was in compliance with ethics rules, the report said. For more than half of the forms, GAO was unable to determine whether ethics officials had reviewed them within 60 days after their filing because there was no indication of when the forms were received.

The 18-month period in question encompasses the final months of the Obama administration; the report notes that an earlier review by the Office of Government Ethics had found similar weaknesses in a sampling of advisory committees' ethics documents from 2015. In the future, GAO recommends that EPA's ethics office spot-check the quality of financial disclosure reviews for advisory committee members.

Vizian did not dispute that finding and blamed the lapses on understaffing in EPA's ethics office during the time of the GAO review. Those staffing issues have since been resolved, she said, and EPA "is now engaged in a full and thorough review" of all employees' ethics forms "to ensure they meet all ethics requirements."

Besides barring EPA grant recipients from advisory committee service, Pruitt also upended an informal tradition of reappointing first-term members to a second consecutive term. Whitehouse, Carper and the other eight requesters — all of them Senate Democrats with the exception of Sen. Bernie Sanders (I-Vt.) — had sought GAO review after Pruitt balked at reappointing first-term members of the Board of Scientific Counselors, which advises EPA on its research activities (E&E News PM, July 6, 2017).

Pruitt also specifically mentioned the board in announcing the new membership policy in October 2017; on both that panel and the Science Advisory Board, there was a "noticeable decrease in the percentage of members affiliated with academic institutions" after January 2017 in comparison with the period after January 2009, according to GAO.

As E&E News has previously reported, EPA has made little apparent effort to enforce the membership policy for many of its other federal advisory committees (Greenwire, Sept. 21, 2018).

Pruitt, mired in allegations of ethical wrongdoing, resigned under pressure last July. His successor, Andrew Wheeler, has shown no interest in reversing the membership policy. Wheeler, a former coal industry lobbyist, fanned controversy of his own last fall when he abruptly fired members of a CASAC adjunct panel who were helping in a fast-track review of

the particulate matter standards. Wheeler also opted against forming a similar panel to assist in a review of the ozone standards.

In congressional testimony, Wheeler has since described those decisions as streamlining moves; critics have accused him of attempting to skew the results of the reviews. Pruitt's policy was initially the subject of three legal challenges brought by various advocacy groups and former advisory committee members. While U.S. District Court judges in Massachusetts, New York and the District of Columbia have all ruled in favor of EPA, plaintiffs in two of those cases are appealing.

The New York Times

E.P.A. Broke Rules in Shake-Up of Science Panels, Federal Watchdog Says

<https://www.nytimes.com/2019/07/15/climate/epa-advisory-panels-gao-report.html>

Lisa Friedman 07/15/19

WASHINGTON — The Trump administration failed to follow ethics rules last year when it dismissed academic members of Environmental Protection Agency advisory boards and replaced them with appointees connected to industry, a federal watchdog agency concluded Monday.

The agency, the Government Accountability Office, found that the administration “did not consistently ensure” that appointees to E.P.A. advisory panels met federal ethics requirements. It also concluded that Trump administration officials violated E.P.A. guidelines by not basing the appointments on recommendations made by career staff members.

Scott Pruitt, President Trump’s first E.P.A. administrator who resigned last year amid ethics scandals, remade the agency’s science advisory panels because he said they did not fairly represent the United States geographically, or the industries affected by regulations.

The percentage of academic scientists serving on one E.P.A. panel, the Scientific Advisory Board, dropped 27 percent during the first year of the Trump administration. Academics on the agency’s Board of Scientific Counselors dropped 45 percent. Investigators found that the percentage of academics on E.P.A. advisory boards remained stable around 83 percent during the first year President Barack Obama was in office.

About 23 percent of the financial disclosure forms that the accountability office reviewed for the new members were incomplete. In more than half of all cases, auditors were unable to determine whether an ethics official had reviewed the member’s disclosure.

“E.P.A. also did not consistently ensure that members appointed as special government employees — who are expected to provide their best judgment free from conflicts of interest and are required by federal regulations to disclose their financial interests — met federal ethics requirements,” the report said.

It also said the agency “did not follow a key step” in its own rules by failing to document the agency’s rationale for appointing new panel members. Under established procedures, agency staff members are expected to outline their decisions for recommending certain candidates.

“This report shows that the Trump administration rigged influential advisory boards to favor its polluter backers,” Senator Sheldon Whitehouse, a Rhode Island Democrat, said in a statement. He called the findings “yet another example of Donald Trump handing the keys to Americans’ government to big industries that government is supposed to police.”

The House Science Committee is expected to raise the findings in a hearing Tuesday.

The E.P.A. denied violating guidelines. Michael Abboud, a spokesman for the E.P.A., noted in an email that challenges to the agency’s appointment decisions “have been dismissed in three separate district courts.” “Given the range of environmental and public health considerations across the country, E.P.A. is proud of the fact that its chartered scientific

advisory committees have the highest participation of state, local, and tribal experts than at any point in the Agency's history," Mr. Abboud said.

The G.A.O. report found that Mr. Pruitt remade the panels geographically to include a 25 percent increase in members from the South, which the watchdog agency defined as spanning from Delaware to Texas.

Animal Testing:

Chemical Watch

EPA denies leaked report of 2035 animal testing phaseout

<https://chemicalwatch.com/79680/epa-denies-leaked-report-of-2035-animal-testing-phaseout>

Lisa Martine Jenkins 07/15/19

Agency calls Intercept story inaccurate, says it is looking to announce goals soon

The US EPA has refuted a recent press report that the agency has unannounced plans to stop using mammal studies in the approval of new chemicals by 2035.

In a 3 July article for the Intercept online news publication, Sharon Lerner wrote that a leaked internal memo also included plans to eliminate mammal studies more broadly, and to require approval from the agency administrator for any animal studies done after 2035.

However, an agency spokesperson told Chemical Watch the story was "inaccurate", but did not specify which aspects of the article it was referring to.

"EPA does look to announce sometime soon agency goals to reduce the number of animals impacted by EPA testing," the spokesperson said. "Human health will be fully protected under any final EPA policy goal to reduce reliance on animal testing."

It would not provide a copy of the memo in question. Ms Lerner told Chemical Watch she stood by her reporting.

Animal testing phase-out

The 2016 Lautenberg Act directs the EPA to reduce and replace "to the extent practicable and scientifically justified" the use of vertebrate animals in chemical testing, and to promote the development and "timely" incorporation of alternative test methods.

Last year, as a part of the law's implementation, the EPA released a final strategy that included a 'long-term' commitment to eliminate the use of animal testing.

At the time, however, the agency said "it is not possible to identify a time-frame when vertebrate animal testing will be eliminated; but it is an important, and ultimately achievable, goal."

With respect to its forthcoming policy announcement, the EPA spokesperson added: "EPA can protect human health and simultaneously reduce, replace and refine animal testing requirements."

Stakeholders weigh in

There has been ongoing controversy over the pace at which the EPA transitions to alternatives.

In May last year, the National Resources Defense Council submitted comments on the EPA's alternatives testing strategy, which questioned whether the agency will be able to limit chemicals using exclusively alternative methods. They expressed concern that an "overzealous" use of alternatives may underestimate or completely miss toxicity or exposure.

"Our support [for the strategy] is tempered by significant concern that the process of deploying new technologies will progress at a pace that exceeds their ability to provide equivalent or better information for purposes of assessing chemicals," the NGO added.

But a month later the agency defended its approach as a 'middle ground' in the debate.

And other stakeholders have applauded the possibility of a shorter timeline – as reflected in the Intercept story. Justin Goodman of the White Coat Waste Project (WCW) – a taxpayer watchdog organisation focused on limiting funding for animal tests – described the apparent pace as 'conservative'.

"EPA's work to cut animal testing is good for public health, good for taxpayers' pocketbooks, and good for animals," he told Chemical Watch.

Bees:

HuffPost

EPA Approves Bee-Killing Pesticide After U.S. Quits Tracking Vanishing Hives

https://www.huffpost.com/entry/sulfoxaflor-epa-honeybee-colonies-usda-data-200-million-acres_n_5d2bf580e4b0060b11eeb5f1

Mary Papenfuss 07/15/19

Environmentalists slam the Trump administration's "reckless" move as honeybee colonies collapse.

The Environmental Protection Agency has dropped restrictions on the use of a powerful pesticide known to be particularly lethal to honeybees for some 190 million acres of U.S. cropland.

The action Friday came just days after the U.S. Department of Agriculture revealed it had stopped tracking rapidly vanishing honeybee colonies, which will make the impact of the EPA's deregulatory move difficult to gauge.

The controversial insecticide sulfoxaflor, manufactured by DowDupont's Corteva agricultural division, can now be used on a wide range of crops, including corn, soybeans, strawberries, citrus, pumpkins and pineapples, the EPA said.

Sulfoxaflor has been found to be "highly toxic to honey bees at all life stages," according to the EPA's own studies — and harms wild pollinators like bumblebees even at low doses. Yet Alexandra Dunn, head of the EPA office that oversees pesticides, said the agency was "thrilled" to approve new uses and lift past restrictions on sulfoxaflor, which she called "highly effective."

Dow contributed \$1 million to President Donald Trump's inauguration committee.

The EPA's action could be catastrophic for honeybees, environmentalists said. Honeybee colonies, which pollinate a third of all the crops Americans consume, have plummeted from 6 million in 1947 to 2.4 million in 2008. But data tracking the already beleaguered colonies in an annual Honey Bee Colonies survey— and the future consequences from the EPA action — will no longer be collected by the USDA due to undisclosed budget restraints, the department announced this month. Meanwhile, the USDA is arranging some \$27 billion for two years of extra subsidies to farmers to cushion the blow of Trump's trade war with China.

"The Trump EPA's reckless approval of this bee-killing pesticide across 200 million acres of crops like strawberries and watermelon without any public process is a terrible blow to imperiled pollinators," Lori Ann Burd, director of the Center for Biological Diversity's environmental health program, said in a statement.

Greg Loarie, an attorney for the environmental advocacy group Earthjustice, called the EPA's decision "reckless" at a time when "honey bees and other pollinators are dying in greater numbers than ever before. Scientists have long said

pesticides like sulfoxaflor are the cause of the unprecedented colony collapse,” he added. “Letting sulfoxaflor back on the market is dangerous for our food system, economy and environment.”

An annual report by The Bee Informed Partnership, a group of university researchers, found that American beekeepers lost nearly more than 35% of their honeybee colonies over the 2018-2019 winter — the highest level recorded since the association started tracking losses in 2006. =

Sulfoxaflor was initially approved by the EPA in 2013, but beekeepers and others sued the agency to block its use. The U.S. Court of Appeals for the 9th Circuit ruled in 2015 that federal regulators failed to show the pesticide did not pose serious risk to pollinators, and the court vacated the agency’s approval. The following year the EPA began granting emergency waivers and exemptions to use the pesticide.

Biodiesel:

The Hill

Finish the work of building a renewable fuels industry

<https://thehill.com/opinion/energy-environment/452860-finish-the-work-of-building-a-renewable-fuels-industry>

BYRON DORGAN

Byron Dorgan served as a Democratic senator from North Dakota. He is now a senior fellow and co-chair of Arent Fox’s government relations practice and a director of the Energy Project at the Bipartisan Policy Center. Follow him on Twitter @ByronDorgan.

The men and women who took seriously the government’s desire to develop a renewable fuels industry have made great progress in creating billions of gallons of biodiesel production capacity. Their success should be a cause for celebration; it is good for the country and should continue to be encouraged. Biodiesel production extends the U.S. fuel supply, substantially reduces carbon emissions, and supports family farmers.

Despite their success, those men and women are too often meeting roadblocks in the same federal programs meant to encourage them in the first place.

Producers of biodiesel — which can reduce carbon emissions from over-the-road trucking by up to 80 percent — continue to watch policymakers in Congress and the White House drag their feet on key policies.

Renewable fuels policy is a winner in every way. Not only does it hold the key to substantially reduced carbon emissions, it also is a significant boost to family farmers who benefit when bountiful food, fiber and fuel are produced from our nation’s fertile soil. Biodiesel production adds approximately 63 cents of value to every bushel of soybeans.

Farmers and biodiesel producers have been promised over and over that Congress would extend the tax credit for biodiesel production. But it has been postponed time and time again. As a result, some producers have cut back on production or closed facilities and laid off workers. Without the tax credit, many biodiesel producers face major financial difficulty. Congress needs to get the tax credit done — and soon.

There is strong, bipartisan support for extending the biodiesel tax credit. A bill introduced in the House of Representatives by Rep. Abby Finkenauer (D-Iowa) in April to quickly extend the biodiesel tax credit through the end of the year has 57 co-sponsors. They include representatives from California to Connecticut, with a balance of Democrats and Republicans.

Rep. Richard Neal (D-Mass.), chairman of the tax-writing Ways and Means Committee and a renewable fuels supporter, also is working to get the tax credit extended. In June, his committee passed legislation that would extend the incentive through 2020, providing one year of forward-looking certainty for the industry. Chairman Neal recognizes that long-term certainty is the best policy for renewable fuels growth. No one can rely on expected financial incentives that are not

consistently delivered. Instead of on-again, off-again policy, why not treat biodiesel producers the same as oil producers, who have had permanent tax credits for more than a century?

The new majority in the U.S. House needs to work with Chairman Neal to get this done. Some things are hard for the Congress to do, but this isn't one of them. It's long past the time to get this right and to get it done.

More needs to be done at the other end of Pennsylvania Avenue as well. President Trump recently pushed the Environmental Protection Agency (EPA) to complete a rule-making that allows E-15 to be used throughout the year. That is a good thing to have done and has been a long-sought goal for ethanol producers. But it does not help biodiesel or other advanced biofuels.

But even as they do that, the White House and the EPA are undercutting advanced biofuels such as biodiesel by cutting back the Renewable Fuel Standard (RFS) program and allowing secret hardship waivers to so-called small refiners. They have to know that small refinery exemptions are stunting the growth of the biodiesel industry. There is no justification for the type and amount of waivers the EPA and White House have allowed. Some of these waivers have gone to major oil companies in a sleight of hand move by the EPA. Further, the renewable volume obligation just proposed by the EPA provides no growth in the biodiesel industry through 2021. The administration can and should keep its promise to support farmers and to grow this industry.

Those of us who, over a decade ago, enacted legislation to help create a successful, growing renewable fuels industry assumed that the government policies would be maintained to support the growth of the industry.

When the Congress enacts the tax extenders and the White House puts the brakes on the so-called hardship waivers, and begins to set healthy renewable volume obligation (RVO) levels, only then will we see exciting renewable fuels such as biodiesel reach their full production potential.

Chemicals:

Bloomberg Environment

EPA to Disclose Chemical Details if Privacy Claims Lacking

<https://news.bloombergenvironment.com/environment-and-energy/epa-to-disclose-chemical-details-if-privacy-claims-lacking>

Pat Rizzuto

- No more EPA heads-up to companies that goof up confidential business information claims
- Change applies to chemical manufacturers, processors

Chemical manufacturers or processors that make mistakes on forms asking the EPA to keep information confidential will no longer get a chance to fix them, the agency said in a notice to be published in the July 16 Federal Register.

The notice says that details in confidential business information claims that are incomplete or otherwise invalid are "subject to disclosure without further notice."

The announcement reverses a policy the Environmental Protection Agency announced in January 2017, when it said it would give companies a "notice of deficiency" and let them correct mistakes in confidential business information claims.

Eliminating the deficiency notices will speed the EPA's process of approving or rejecting these claims and help the agency meet its statutory deadline of reviewing such claims within 90 days, the EPA said. But it leaves the company with little recourse beyond lawsuits if the agency discloses something they'd rather be kept private.

Two Years to Familiarize

Companies have had more than two years since that 2017 notice to become familiar with requirements the agency has for making claims of confidential business information, and the EPA said there have been fewer deficiencies in claims filed in recent months.

The EPA has sent companies 984 notices of deficiency since March 21, 2017, when the original policy went into effect, and the vast majority were about claims submitted before that date, the agency said.

“While it’s preferable that EPA continue to provide that notice of deficiency, we understand that doing so is not statutorily mandated,” said Jon Corley, a spokesman for the American Chemistry Council. He said council members appreciated the 30-day notices to help them become more familiar with the 2016 Toxic Substances Control Act amendments that for the first time required companies to substantiate claims to keep information private.

Martha E. Marrapese, a partner with the Washington office of Wiley Rein LLP, said the new EPA notice means that taking the agency to court will be companies’ only opportunity to defend confidential business information claims that the EPA unjustly rejects.

If the EPA is going to speed its reviews of confidential business information claims, it should also make sure those reviews are consistent, which hasn’t always been the case, Marrapese said.

Richard Denison, lead senior scientist with the Environmental Defense Fund, said “it’s about time” the EPA made the change.

“For far too long EPA has coddled the industry when it comes to errant CBI (confidential business information) claims, giving it chance after chance to comply with the Toxic Substances Control Act’s clear requirements,” he said.

The EPA’s notice follows its first-ever recent release of statistics summarizing “confidential business information” requests it received and determinations it made. The agency released that information to meet a promise Administrator Andrew Wheeler made to Sen. Tom Carper (D-Del.).

Clean Water Act:

Greenwire

Greens assail 'Orwellian' view of Clean Water Act

<https://www.eenews.net/greenwire/2019/07/15/stories/1060742903>

Ellen Gilmer

Exempting pollution that travels through groundwater from the Clean Water Act's permitting program is out of step with the purpose of the law, environmental lawyers told the Supreme Court last week.

In a new brief in the high-stakes *County of Maui v. Hawai'i Wildlife Fund*, Earthjustice lawyers argued that county leaders and the Trump administration have adopted an overly narrow view of the Clean Water Act's reach.

At issue in the case is whether the landmark environmental law applies to pollution that moves through groundwater or another intermediary before reaching a federally regulated surface water.

In Maui, wastewater sent into disposal wells mixes with water underground and winds up in the Pacific Ocean. A lower court sided with local environmental groups, which said the discharges required a Clean Water Act permit.

The Supreme Court agreed to review that ruling and is set to hear arguments Nov. 6.

Lawyers for both sides have sought to frame their arguments as the clearest reading of the Clean Water Act's text. The environmental statute requires permits for pollution from discrete "point sources" to federally regulated surface waters.

In last week's brief, Earthjustice lawyers argued that the Trump EPA and Maui County have offered an extreme interpretation that would exempt "any such pollution that ever travels through groundwater, over any distance, for any amount of time."

"The Act's terms, however, express Congress's intent to prohibit the unpermitted discharge from disposal wells of pollutants that actually and foreseeably reach navigable surface waters," the brief says.

Earthjustice and the local environmental groups it represents reason that the disposal wells are traditional point sources, the Pacific Ocean is a federally regulated waterway, and the underground connection between the two is clear and undisputed.

"The CWA's coverage is not limited to pollutants that come to navigable waters directly from point sources, without any intermediate means of transmission," they wrote. "Pollutants added to navigable waters come 'from' a point source if the point-source discharge was both a factual and a proximate cause of the pollutants' reaching those waters."

They called the county's and the government's contrary view an "unnatural and cramped" reading of the statute.

"The County of Maui's attorneys have done a wonderfully Orwellian job of professing support for the Clean Water Act while simultaneously trying to blow a hole in the law that protects our nation's rivers, lakes, and oceans," Earthjustice lawyer David Henkin said in a statement.

"This reading of the Act runs counter to 40 years of interpretation of the law that discharges that pollute our rivers, lakes and oceans via groundwater must comply with limits set by permits issued under the Clean Water Act," he said.

Maui County argued in its own brief in May that the groundwater itself counted as the source of the pollution reaching the Pacific Ocean. Groundwater is diffuse, not the type of discrete source covered by the federal permitting program, so the local disposal wells do not require a permit, the county's lawyers told the court (Greenwire, May 10).

EPA under the Trump administration has sided with Maui County, reversing the agency's earlier policy that indirect pollution discharges do require permits (Greenwire, April 16).

The county and environmental groups have been discussing settlement options that would scuttle the Supreme Court case but have not yet reached any agreement.

Office of Inspector General:

Bloomberg Environment

EPA Falls Short on Data Quality, Management: Internal Watchdog

<https://news.bloombergenvironment.com/environment-and-energy/epa-falls-short-on-data-quality-management-internal-watchdog>

Stephen Lee

- EPA Office of Inspector General finds shortcomings
- Former EPA official says problems have been lingering for years

The EPA must do a better job of tracking environmental data, relaying health risks to citizens, overseeing states, and managing its staff's workload, according to a July 15 report from the department's internal watchdog.

The report found "multiple data gaps" and poor data quality that are hurting the Environmental Protection Agency's ability to oversee programs that directly affect public health, such as air quality, drinking water, toxic releases to surface water, and Superfund sites, wrote the Office of Inspector General in a 32-page report to EPA Administrator Andrew Wheeler.

As an example, the report pointed to a June 2017 inspector general's finding that EPA wasn't doing an adequate job of ensuring compliance with federal benzene standards. The agency has taken some actions to fix those and other shortcomings, but problems persist, according to the inspector general.

EPA officials couldn't be immediately reached for comment. Wheeler has repeatedly said the agency under President Donald Trump has helped provide regulatory certainty while still protecting the environment.

'Significant Management Challenge'

The report also found that EPA's oversight of states, territories, and tribes that are delegated to implement federal laws remains a "significant management challenge."

Some improvements have been made, such as an increase in the number of detailed reviews of states' drinking water programs, the inspector general said. But problems persist in other areas, most notably illustrated in a July 2018 inspector general's report that found improper management controls that could have led to better decision-making during the Flint, Mich., water crisis. EPA is taking corrective actions in that case, the report noted.

The inspector general's finding highlights a longstanding tension between national consistency and regional flexibility, said Stan Meiburg, EPA's acting deputy administrator during parts of the Obama administration.

"That's embedded in federalism," said Meiburg, now a sustainability professor at Wake Forest University. "The OIG leans heavier on national consistency, and the agency tends to say you need to leave some discretion."

Many of the problems the report found have been lingering for years, he said.

On July 11, EPA released guidance to its regional offices giving states a stronger voice in environmental inspections and enforcement actions.

Workload Issues Persist

Workload issues also continue to be a problem, dating back to well before Trump took office, the report found.

To illustrate its point, the inspector general cited shortcomings in the agency's inspections of asbestos in schools and Superfund cleanup work, which it said were attributable to a lack of personnel.

Rena Steinzor, former president of the Center for Progressive Reform, agreed that most of the report's findings can be traced back to staffing cuts at EPA.

"They don't have the people that they need," said Steinzor, a professor at the University of Maryland School of Law. "There's nobody home in a lot of places."

EPA had 14,172 staffers in fiscal 2019, a 32-year low. During the Obama administration, EPA's staff averaged about 16,000.

"The agency doesn't have the manpower to do the things it needs to do," Meiburg agreed. "Even when they were at 15,000, they didn't."

But the report left open the possibility that the staffing cuts could be a "natural and justifiable progression" because the EPA has already completed several major rules and handed off responsibility to the states.

Greenwire

Agency needs to improve on risk communication — IG

<https://www.eenews.net/greenwire/2019/07/15/stories/1060743405>

Kevin Bogardus

EPA's Office of Inspector General said the agency needs to step up its efforts on one of Administrator Andrew Wheeler's top priorities: risk communication.

The EPA internal watchdog included the issue on its "management challenges" report for fiscal 2019, which was released today. Leadership at EPA needs to show "an organizational commitment" and ensure the agency has enough resources to communicate potential environmental hazards to the public, the report concluded.

In his first address to EPA employees in July last year after he took over as acting administrator in the wake of Scott Pruitt's resignation, Wheeler talked about how important the issue is for the agency (Greenwire, July 13, 2018).

"Risk communication goes to the heart of EPA's mission of protecting public health and the environment," he said in his speech.

"We must be able to speak with one voice and clearly explain to the American people the relevant environmental and health risks that they face, that their families face and that their children face," Wheeler said.

The OIG noted what steps EPA has taken on risk communication — including it on its fiscal 2018-22 strategic plan; hosting a leadership summit on per- and polyfluoroalkyl substances, or PFAS; and having its children's health protection office work on the issue.

But the agency has faltered in recent years, the inspector general noted. The office cited EPA's lackluster response to the Flint, Mich., drinking water crisis; not following through on outreach to states to warn farmworkers about pesticides; and not giving health warnings to those fishermen eating contaminated fish.

The report said, "From unsafe drinking water in Flint, Mich., to farmworkers working near pesticides, citizens count on the EPA for timely and accurate risk communication messages," which can come in verbal or visual statements to convey potential hazards for the public.

This is the first year EPA's inspector general has included risk communication on its annual report detailing what the internal watchdog calls "the most serious management and performance challenges facing the agency." The OIG also kept the five other issues from last year's report on this fiscal 2019 edition.

Those included better oversight by EPA of states and tribes on environmental protection and improving the agency's workload analysis. In addition, EPA needs to bolster its cybersecurity defenses, fulfill reporting mandates and revamp its data quality.

Those five challenges from last year's report were retained "due to persistent issues," according to the inspector general.

Paris Withdraw:

Climatewire

Wheeler: Obscure air provision behind Paris withdrawal

<https://www.eenews.net/climatewire/2019/07/15/stories/1060740395>

Jean Chemnick

EPA Administrator Andrew Wheeler may have offered some new information last week about the legal arguments behind President Trump's decision to pull out of the Paris Agreement.

In a call with reporters last Monday ahead of Trump's White House environment speech, the administrator told reporters that the United States couldn't have stayed in Paris because doing so would have jeopardized Trump's deregulatory agenda.

That's not necessarily a new line from the administration; Wheeler's predecessor, Scott Pruitt, and then-White House Counsel Don McGahn, top administration agitators for leaving the deal, debuted it in meetings before the president announced plans to leave Paris in June 2017. Trump allies on Capitol Hill and in agencies have been using it ever since.

But Wheeler's explanation was different. When a reporter asked whether Trump still sought to "renegotiate" Paris, Wheeler mentioned a Clean Air Act provision that has been used once in the law's 40-year history. He said it would have made Trump's domestic agenda impossible if the United States stayed in the deal.

"Another aspect that a lot of people gloss over is that, under the Clean Air Act — I believe it's Section 115 of the Clean Air Act — if we enter into an international treaty, such as the Paris climate accord — if we fail to meet our targets, those are enforceable under our domestic laws," Wheeler said. "Most other countries who are signatories to the Paris climate accord don't have that same constraint."

Section 115 allows EPA to force states to regulate pollutants that harm public health in foreign countries if those countries put in place similar controls to protect Americans' health. It doesn't turn U.S. treaty commitments into domestic legal requirements.

EPA did not respond to requests for clarification or comment. But Clean Air Act experts from both the environmental and industry sectors agree that Section 115 would not have amounted to a "constraint" on Trump's abandonment of President Obama's Paris pledge, as Wheeler seemed to suggest last week.

"It's a false argument," said Michael Gerrard of Columbia Law School's Sabin Center for Climate Change Law. "It's simply untrue that 115 can be used to force compliance with the Paris targets. There's no pathway."

Still, in mentioning the Clean Air Act provision, Wheeler strayed from the more usual arguments offered by Paris opponents. They tend to argue that the largely nonbinding 2015 agreement could come to dominate U.S. energy policy — to wit, that the United States always honors its treaty commitments, and that the agreement is bound to turn up in litigation.

2 tests

EPA has only used Section 115 once, in an early 1980s attempt to contain acid rain between the United States and Canada.

It kicks in if EPA, having received "reports, surveys or studies" from an "international agency" showing that U.S. emissions are harming public health outside its borders, decides to issue an endangerment finding. EPA can then compel states where the pollution originates to revise their plans for that pollutant "to prevent or eliminate" the harm to the foreign population — but only if the other country does the same.

It's not clear what Wheeler was getting at; the Clean Air Act has seldom come up in deliberations about Paris. One of the exceptions is a letter Republican senators wrote to Trump in the waning days of May 2017, a week before his Paris announcement in the White House Rose Garden, to warn him that staying in the Paris accord would be a "key risk" to Trump's hopes of undoing Obama's Clean Power Plan.

The 22 senators contended that Section 115 "mandated" that EPA and the states curb a pollutant "after two tests are met." EPA had already met the first test when it established in its 2009 endangerment finding that greenhouse gas emissions endanger public health.

The other was for reciprocity. The letter's signatories — led by Senate Environment and Public Works Chairman John Barrasso (R-Wyo.) and Sen. Jim Inhofe (R-Okla.), and including Senate Majority Leader Mitch McConnell (R-Ky.) — counseled Trump that Paris fit the bill.

"Environmentalists will argue that these section 115 requirements are, in fact, met more easily by the Paris Agreement because it includes enhanced transparency requirements," they wrote, referring to the accord's only legal requirement, which calls on parties to disclose information on their progress toward voluntary commitments on a set schedule.

"Leading environmental attorneys have been candid that they intend to use the Paris Agreement and the existing endangerment finding to force EPA to regulate under Section 115 of the Clean Air Act," stated the senators.

The letter stays mum about which "leading environmental attorneys" had been so candid, and the EPW committee did not return calls for comment. But Clean Air Act experts reached by E&E News — including David Bookbinder, former chief climate counsel for the Sierra Club and the only lawyer the GOP letter mentioned by name — said mounting a legal challenge to force an unwilling EPA to use Section 115 to regulate greenhouse gas emissions would be difficult or impossible.

Bookbinder, who is now chief counsel for the libertarian Niskanen Center, called Wheeler's suggestion "utter nonsense." He said domestic litigants would probably lack standing to sue.

"You have to be a foreign country to invoke 115," he said.

Gerrard questioned whether a foreign country could sue the U.S. government, while Jeff Holmstead, who represents industry clients for Bracewell LLP, said any such challenge would be unlikely to succeed.

"Even if a lower court were to accept this argument, the issue would almost certainly go to the Supreme Court, which isn't going to buy it," he said.

'Magic wand'

Section 115 wouldn't kick in automatically, Clean Air Act experts said. EPA and State Department leadership would have to lay the groundwork for it proactively, in lieu of other Clean Air Act provisions like Section 111(d), which EPA used to limit power plant carbon dioxide under both Obama and Trump.

There's also the question of whether EPA's 2009 endangerment finding for greenhouse gas emissions would in fact suffice for Section 115, as the Republican letter says it would. The finding, which underpins EPA's authority and obligation to regulate greenhouse gases, states that it "is not evaluating international effects to determine whether populations in a foreign country are endangered."

EPA would likely need a new international endangerment finding before it could use 115.

But while environmental lawyers aren't chomping at the bit to mount challenges related to Section 115, several have proposed that a pro-climate-action administration could use the long-dormant section to wring deeper greenhouse gas reductions out of the American economy.

A year before McConnell, Barrasso and their colleagues wrote to Trump, a group of environmental law experts — including Gerrard, Sabin Center Executive Director Michael Burger, Jason Schwartz of New York University Law School's Institute for Policy Integrity and others — published a 65-page [article](#) proposing that a future administration consider 115 as a way to build on Obama's climate legacy.

The authors saw broad possibilities in the provision. It would let EPA direct states to set plans to cut carbon across their economies rather than working incrementally by sector, and afford enough flexibility to allow cap-and-trade and other market-based compliance mechanisms.

International actions including Paris would ensure that the reciprocity requirement was met, they wrote.

"The time is ripe for EPA to consider use of its authority for international air pollution control," they wrote.

At least one Democratic presidential contender seems to be looking into the idea. Washington state Gov. Jay Inslee's climate change plan calls for EPA to consider greenhouse gas regulations under 115.

But Bookbinder argued that Section 115 would disappoint environmentalists who hoped it would make up for years of lost time under Trump by delivering economywide reductions without legislation.

"What they like about 115 is that they don't have to go sector by sector; all we have to do is wave our magic wand, and all of a sudden, EPA can order whatever it wants," he said.

But Bookbinder questioned whether Paris would meet the reciprocity requirement because commitments made under it are voluntary. He raised legal questions about state plans to regulate carbon and noted that the Clean Air Act's mandate that EPA compel states to "prevent or eliminate" threats to foreign health went well beyond its protections for U.S. citizens, which are based on EPA identifying a so-called best system of emissions reduction.

Section 115 does not allow states to consider economic concern when mandating reductions, he said, and the law requires EPA to reject state plans that are insufficiently protective. Those provisions haven't been tested in court.

"If EPA wants to deal with endangerment in the United States, it's constrained by A, B and C, but if they want to deal with the exact same thing in Ghana, EPA can order anything it wants?" Bookbinder said. "That won't make it out of the starting blocks."

PFAS:

Greenwire

N.M. accuses EPA of breaking Wheeler's PFAS cleanup pledge

<https://www.eenews.net/greenwire/2019/07/15/stories/1060743501>

Corbin Hiar

New Mexico's environmental chief has accused EPA of failing to live up to Administrator Andrew Wheeler's promise to aid the state in toxic waste litigation against the Pentagon, raising questions about the agency's commitment to fight water contamination and follow its new enforcement policy.

The claims from New Mexico Environment Department Secretary James Kenney were made in a July 2 letter to David Gray, the EPA regional administrator who oversees environmental regulators in the Land of Enchantment and four other states.

Kenney noted that at a Senate appropriation hearing in April, Wheeler had assured Sen. Tom Udall (D-N.M.) the agency would support his state's effort to hold the Air Force accountable for allegedly contaminating drinking water around two bases with certain toxic chemicals known as per- and polyfluoroalkyl substances, or PFAS, which are found in military firefighting foams (Greenwire, March 6).

"It is my understanding we've already offered assistance to them," the EPA chief said. "If we haven't, we certainly will."

Udall followed up by clarifying the state was suing the Department of Defense and asked if EPA could "share information with New Mexico on a confidential basis."

Wheeler responded with a "yes."

Yet in a May phone call with EPA General Counsel Matt Leopold, the agency "informed NMED that it would not join the State's enforcement efforts against a sister executive agency," Kenney said in the letter. "Aside from holding federal

facilities to a lower standard of compliance under [toxic waste law], EPA's lack of engagement on this matter adversely impacts NMED's litigation while leaving communities vulnerable to PFAS pollution."

Although EPA representatives said they would "look in to" providing the state with "technical resources related to the litigation," they hadn't followed up with the NMED two months after that call, Kenney wrote.

"NMED encourages EPA to reassess its position regarding collaborative federal/state PFAS enforcement," he said in the letter, obtained by E&E News. "To the extent EPA maintains its current position, this raises serious concerns for NMED regarding EPA's commitment to addressing PFAS contamination."

NMED didn't immediately respond to a request for comment on the standoff. An EPA spokesman said, "We will respond to the State through the proper channels."

But Udall slammed EPA's alleged double talk on PFAS enforcement.

"This looks like another broken promise from the Trump administration when it comes to helping communities in New Mexico and across the country that have been devastated by exposure to PFAS," the ranking member on the Appropriations Subcommittee for EPA said in an email.

"Administrator Wheeler committed to me in person — in a public hearing — that the EPA would work to assist the New Mexico Environment Department in their efforts to clean up these toxic chemicals, which are ruining the livelihoods of our farmers and threatening communities," he wrote. "But once again, when it comes to PFAS, the Trump EPA is showing that it's all talk and no action."

Earlier this year, EPA proposed cleanup guidance for groundwater contaminated by two types of PFAS that were less protective than some state standards and lacked any emergency removal provision for extremely contaminated areas (E&E News PM, April 25).

Concerns about the widespread chemicals and EPA's slow response to the contamination they've caused has led to a flurry of legislative action on PFAS, with a raft of measures to address them included in both versions of Defense authorization legislation passed by the House and Senate (E&E Daily, July 11).

Enforcement contradictions

EPA's position on the New Mexico PFAS case also contradicts its recently updated policy on partnering with states on environmental enforcement, according to a former agency official.

The new policy says "EPA will generally defer to a state as the primary implementer of inspections and enforcement." But it also says the agency "may take the lead in a case where the state does not have the equipment, resources or expertise necessary to enforce an aspect of an authorized statutory program," or in cases involving "a federally owned or operated facility" (E&E News PM, July 11).

NMED's letter "means that the new EPA enforcement policy is not worth the paper it's written on," said Tim Whitehouse, a veteran EPA enforcement attorney who is currently executive director of Public Employees for Environmental Responsibility, a watchdog group.

"EPA will continue to retreat from enforcement, and it will not make the difficult decisions necessary to protect public health and the environment," he predicted in an interview.

EPA didn't respond to questions about how its actions in the New Mexico case comport with the agency's stated enforcement policy.

The Hill

How toxic 'forever chemicals' made their way into your food

Patrick Macroy

Patrick MacRoy is the deputy director of the Portland, Maine based Environmental Health Strategy Center, a nonprofit organization working for safe and toxic-free food, drinking water and products.

It's summertime, which means the tourists are flocking to beachside ice cream stands. With their double scoop of blueberry, however, they may be getting a dose of toxic PFAS — thanks to the lax oversight of these harmful industrial chemicals entering our food supply.

PFAS, or poly- and perfluoroalkyl substances, are a class of chemicals used to add stain and water resistance to consumer products and some food packaging. They have also been widely used in firefighting foams. Exposure to several PFAS increases the risk of some cancers, may interfere with children's learning and development and is associated with increased cholesterol levels. PFAS have a distinctive carbon-fluorine bond that prevents them from readily breaking down, making them extraordinarily persistent once released in the environment and earning them the moniker of "forever chemicals."

Maine became an unfortunate posterchild for PFAS contamination of dairy this spring when the story of Stoneridge Farm, where milk was found to be contaminated with a PFAS, was widely circulated in the media. National awareness of PFAS in our food has only grown, with reports of contamination of another dairy farm in New Mexico and cranberries in Massachusetts as well as chocolate cake, leafy greens and meat purchased in U.S. supermarkets.

While alarming, the stories are not surprising. Nearly every American has PFAS in their body, and scientists have long believed that the primary route of exposure for most people is through what we eat and drink.

So why are PFAS in our food?

In the case of Stoneridge Farm, cows were exposed when contaminated industrial and sewage sludge — euphemistically known as "biosolids" — was used as fertilizer for their hay. The "beneficial" use of such waste as a soil amendment is promoted by the U.S. Environmental Protection Agency (EPA) and all 50 states. Until the Stoneridge situation, Maine (consistent with federal rules) required sludge to be tested for heavy metals, but not PFAS. For the first time, this year, the state ordered testing for three PFAS, and nearly all sludge failed. The PFAS-laden sludge in Maine originated from areas across the state, a few relatively urban, but most rural, with minimal industrial connections.

In contrast, a New Mexico dairy also devastated by PFAS contamination has the Department of Defense to blame. The cows and their feed were watered with groundwater contaminated by PFAS firefighting foam at a nearby air force base. While the farmer was offered bottled drinking water for himself and his employees, the DoD isn't required to provide clean water for the cows or otherwise address contamination of groundwater impacting agriculture. Recent congressional attempts to close this loophole resulted in a veto-threat from President Trump.

Other PFAS are knowingly allowed to be introduced into food by the U.S. Food and Drug administration. It authorizes, based in some cases on incomplete and inaccurate information, the use of many PFAS to greaseproof food wrappers and other "food contact material." In addition to directly transferring PFAS to food, PFAS coatings on many "compostable" plates and other serveware create another pathway for the chemicals to enter soil and ultimately our food.

So, what can we do about it?

First, relevant agencies must turn off the tap and prevent PFAS from being introduced into products and into the environment in the first place.

So far, they've done the opposite. While fretting about cleaning up older members of the class, the EPA has continued to regularly approve the use of new PFAS sharing similar structures and the red flag of extreme persistence. Meanwhile, DoD and the Federal Aviation Administration continue to resist and slow walk efforts to phase out PFAS firefighting foam.

In contrast, states are taking the lead on preventing new PFAS contamination, with Maine and Washington starting the process to require the elimination of PFAS in food packaging, and Colorado, New York, Washington, and others eliminating or restricting PFAS in firefighting foams. Even major retailers are getting ahead of the problem, with Whole Foods eliminating PFAS from its take-out containers.

The PFAS washing down our drains and ending up in sewage sludge likely originates from many different sources. Everything from stain and water resistant fabrics, to car wash chemicals and ski waxes may contribute, in addition to food packaging and firefighting foams. Federal policy should require safer alternatives to PFAS in all products, and eliminate perverse incentives for the opposite —such as the import tariff reduction for water-resistant outerwear that encourages a near-universal application of a PFAS-based water-resistant treatment to outerwear fabrics.

Second, we must prevent another Stoneridge Farm and get serious about protecting our farm land and food from known toxic contamination. While the use of clean human or animal waste for fertilizing fields is logical and ecologically sensible, spreading sludge known to be contaminated with chemicals that don't break down and are absorbed by plants and farm animals is not.

Until we can eliminate PFAS and prevent them from entering our sewer systems in the first place, states and municipalities must be required to test sludge and hold it to strict standards for PFAS contamination before allowing it to be applied to agricultural land. Maine initially offered a strong model for testing sludge — although in the face of intense industry pressure, the state is allowing the contaminated sludge to be spread anyway.

Finally, we need federal support to identify and clean up contaminated land and water. Congressional attention on contaminated public water supplies is obviously warranted, but the focus needs to be expanded to water intended for agricultural use and in private wells. We must identify and treat contaminated waters used in agriculture, and require that fields with a history of sludge application be systematically tested, along with the agricultural products from them.

With rising levels of cancer and neurodevelopmental problems nationwide, we must act to protect our food supply from this widespread chemical contamination. We should all be able to enjoy summer ice cream and more without fear of PFAS contamination.

Pollution Permits:

CNN

New York Times: EPA to limit ability to oppose pollution permits

<https://www.cnn.com/2019/07/15/politics/epa-pollution-permits-regulation-changes/index.html>

Devan Cole 07/15/19

Washington (CNN)The Environmental Protection Agency is working to change rules that allow individuals or community advocates to fight agency-issued permits that regulate how much pollution can be released by area power plants and factories, The New York Times reported.

The Times, citing conversations with three unnamed people familiar with the plans, said the potential changes could come as early as this week. According to the paper, the regulations, which were created during George H. W. Bush's administration, allowed individuals or community advocates to appeal the permits before a panel of judges within the agency. The changes would eliminate that ability but allow the permit holders to "appeal to the panel, known as the Environmental Appeals Board, to allow them to increase their pollution," according to the paper.

The Times' report, published Friday, said the documents for the changes have "been largely completed," and "the next step would be to announce the proposed rule change and seek public comment," a period the paper said could last 60 to 90 days.

Patrice Simms, a former staff lawyer for the agency's appeals board who now works as an environmental attorney, and Richard Lazarus, an environmental law professor at Harvard, told the paper that the potential changes could give companies "a broader role in influencing the EPA to issue more lenient pollution permits," and could be especially harmful to "poor and minority communities, which are statistically more likely to be located near polluting sites."

"What EPA is proposing means communities and families no longer have the right to appeal a pollution permit that might affect them," Simms said, according to the Times. He added that when the EPA issues pollution permits, "they may or may not get it right," according to the paper.

"This is outrageous," Lazarus told the Times. "Individuals in communities will lose a way to seek relief from pollution that has historically been very effective. But industry will still be able to seek relief to pollute more."

Industry lawyers told the paper that the potential changes "would eliminate burdensome red tape, speeding up a process that is ultimately decided by the courts anyway."

"Often the Environmental Appeals Board is just sort of an expensive and time-consuming stop along the way to the court of appeals," Russell Frye, an attorney for companies that have received and appealed the permits, told the Times. "This would eliminate that step for my clients."

Pruitt:

E&E Daily

Democrats to attack Pruitt policy on advisers

<https://www.eenews.net/eedaily/2019/07/15/stories/1060738641>

Sean Reilly

During his 17-month run as EPA administrator, Scott Pruitt made a lot of controversial decisions. Few provoked the level of outrage that met his October 2017 directive barring current EPA grant recipients from serving on agency advisory committees.

That ban, which Pruitt said was needed to ensure advisers' objectivity, targeted members of three panels in particular, unleashed charges of bad faith and triggered three lawsuits (E&E News PM, Oct. 31, 2017). It also helped clear the way for an influx of new appointees to those panels, many of whom had ties to industries regulated by EPA.

Tomorrow afternoon, that episode could be a major focus of a hearing by members of the House Science, Space and Technology Committee.

The centerpiece will be a Government Accountability Office report that's likely to be critical of at least some aspects of the appointment process; the hearing will also feature witnesses who have all previously expressed misgivings about Pruitt's policy.

"Even beyond that, I would like to provide some perspective on the threat to science at EPA," Tom Burke said in an interview last week.

Burke served as the agency's science adviser during the Obama administration and is now on the faculty of Johns Hopkins University.

Also testifying will be Dr. Jonathan Samet, who previously chaired the Clean Air Scientific Advisory Committee (CASAC), and Deborah Swackhamer, an environmental chemist and former chair of the Board of Scientific Counselors.

On the day that Pruitt announced the new policy, Swackhamer was in a Croatian airport when she learned that she'd been removed from that position, although the exact reason was not made clear (Greenwire, Nov. 1, 2017).

Samet had wound up his tenure on CASAC years before but has since voiced concerns about how EPA is handling a high-stakes review of the National Ambient Air Quality Standards for fine particulates.

The hearing, titled "EPA Advisory Committees: How Science Should Inform Decisions," is a joint production of the Environment and Oversight & Investigations subcommittees.

The leadoff witness will be J. Alfredo Gomez, a director of GAO's natural resources and environment team, who will be discussing the report titled "EPA Advisory Committees: Improvements Needed for the Member Appointment Process."

As of Friday, the report had not been made public. In an interview, Gomez declined to discuss the findings but said it looked at the appointment process from the beginning of fiscal 2017 through the first two quarters of fiscal 2018, a period that spans the final months of the Obama administration through March of last year. "It was a process question," Gomez said. "What is the EPA process, and then did EPA follow the process?"

All of the witnesses are appearing at Democrats' invitation; a spokeswoman for ranking member Frank Lucas (R-Okla.) did not reply to an email asking whether Republicans had sought anyone to testify.

When the committee was under GOP control two years ago, it was a Lucas bill, H.R. 1431, that helped inspire Pruitt's directive. Tomorrow's hearing will be the first time that either a House or Senate committee has taken a sustained look at the policy.

Schedule: The hearing is Tuesday, July 16, at 2 p.m. in 2318 Rayburn.

Witnesses:

- J. Alfredo Gomez, director, natural resources and environment, Government Accountability Office.
- Thomas Burke, professor, Bloomberg School of Public Health, Johns Hopkins University.
- Deborah Swackhamer, professor emerita, Humphrey School of Public Affairs, University of Minnesota.
- Jonathan Samet, dean, Colorado School of Public Health.